



COLLECTING STATE DEBT MAXIMIZING REVENUE & RESOURCES THROUGH OUTSOURCING

MODERATOR

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NATIONAL ASSOCIATION OF RETAIL COLLECTION ATTORNEYS

- Nationwide trade association of over 700 skilled debt collection law firms and in-house counsel of creditors.
- NARCA's mission is to preserve and enhance the integrity and viability of legal collections.
- Members are required to adhere to NARCA's Code of Professional Conduct and Ethics.



NATIONAL ASSOCIATION OF RETAIL COLLECTION ATTORNEYS

- Committed to the fair and ethical treatment of all participants in the debt collection process.
- Lawyers First - required to practice law in a manner consistent with responsibilities as officers of the court.
- Must adhere to applicable state and federal laws and regulation, rules of civil procedure, state bar association licensing and rules of professional conduct.



COLLECTION ATTORNEYS A LEVEL PLAYING FIELD

- NARCA members provide creditors a legal-based collection approach, which in turn affords a level playing field to the consumer.
- If a repayment plan cannot be negotiated prior to suit, the court system provides all parties a forum to air unresolvable disputes, with the final decision on financial responsibility determined by a judge.



THE MODERN COLLECTION LAW FIRM

COMPLIANCE IS KEY

- Call recording and monitoring
- Strategic placement of security cameras
- Voice analytic software to ensure compliance and quality assurance
- Highest level protection of personally identifiable information
- Paperless offices
- Use of exception and trending reports for staff to complement training
- Importance of client brand protection



GOVERNMENT RECEIVABLES

- **STATES & COUNTIES –\$86 Billion Outstanding**
 - Income Taxes
 - Property Taxes
 - Victim Restitution
 - Criminal Fines & Penalties
 - Student Loans
 - Community & State Colleges
 - Worker's Compensation

Source: Local, State and Federal Government Debt Collection (2011), insideARM.com Report,
<http://www.insidearm.com/store/all-products/local-state-and-federal-government-debt-collection-report.html>



REASONS CITED FOR OUTSOURCING

- IN ORDER OF PRIORITY:
 - Lack of staff
 - Lower Cost
 - Insufficient Technology
 - Lack of Expertise
 - Customer Convenience

Source: 2010 Tax & Revenue Recovery Market Assessment Study (April 2010), Government Revenue Collection Association & LexisNexis, <http://solutions.lexisnexis.com/forms/GV10RRGRCAConf13901?source=GRCA>



OBSTACLES TO MAXIMIZING “IN-HOUSE” COLLECTIONS

- PRIORITIES
- LACK OF INCENTIVES
- SPECIALIZATION
 - Liens
 - Garnishments
 - Bankruptcy
 - Business Entities
 - Multi-State Issues
 - Statutes of Limitation
 - Skip Tracing
 - Telephone/Negotiating Skills
 - Post-Judgment Discovery
 - Decedent's Estates



ADVANTAGES TO OUTSOURCING

- Contingency Fees – No “out-of-pocket” expense for services
- Allows re-tasking of staff and resources to areas of greater need or that are more aligned with the OAG’s mission
- Allows reduction of caseload pressures without increasing staff



ADVANTAGES TO OUTSOURCING

- Timely collections - receivables are a rapidly depreciating asset that become inherently harder to collect with time
- Shifts specialization and technology needs to private sector
- Increases quantitative and qualitative performance accountability
- Provides flexibility to replace poorly performing firms and to increase or decrease services based on demand



HOW STATES COLLECT

- Centralized for Multiple Agencies – 17%
- By Individual Agency – 50%
- Combination – 33%

Source: Government Debt Collection, Survey Report and Recommendations (August 2010), National Association of State Auditors, Comptrollers & Treasurers and CGI, http://www.nasact.org/downloads/CGI-NASACT_Debt_Collection_Survey_August_2010.pdf



STATUTORY FRAMEWORK

- **COLORADO** (Colorado Revised Statutes §24-30-202.4, *et seq.*)
 - The state controller may delegate the responsibility for debt collection to the central collection services section of the division of finance and procurement
 - No later than one hundred eighty days after receipt by the controller, all debts that are not claims in process of collection assigned to private counsel or private collection agencies
 - The department of personnel may add a collection fee to the amount of a debt's principal and accruing interest
 - The debtor shall be liable for repayment of the total amount of a debt due to the state, including the collection fee plus allowable fees and costs



STATUTORY FRAMEWORK

- **COLORADO** (cont'd)
 - The state solicitor general shall appoint such assistants as are reasonably necessary to perform the legal services which the controller may require to carry out the duties of collection of debts due the state.
 - If such a debt due to the state is litigated and the state prevails, in addition to the collection fee, the debtor shall also be liable for:
 - Reasonable attorney fees as may be determined by the court
 - Court costs
 - Fees incurred in processing the litigation and collection of any judgment.



STATUTORY FRAMEWORK

- **OHIO** (Ohio Revised Code §109.07 *et seq.*)
 - The attorney general may appoint special counsel to represent the state in connection with all claims which are certified to the attorney general for collection
 - Special counsel paid from funds collected
 - Up to eleven per cent of all amounts collected paid into the attorney general claims fund
 - The fund used for the payment of expenses incurred by the office of the attorney general



SELECTING THE RIGHT FIRM

- Professionalism and reputation for “doing it right”
- Experience and proven performance
- Capacity to efficiently handle volume
- Compliance program and training
- IT resources and data security



LAW FIRM PROCESSES

- RULE #1
 - Collect in a courteous and professional manner. The goal is to discover a way in which the consumer can satisfy his or her obligation. No one wants to be in debt, and most want to find a solution and can do so with a little help.
- RULE #2
 - Ensure that every account always has some form of work being completed on it, whether it be calls, litigation, skip tracing, etc.



LAW FIRM PROCESSES

- **PRE-JUDGMENT**

- Scrub and Score
 - Bankruptcy, Deceased, Litigious Debtor, Military
 - Place collectability score on account for future use
 - On a low score, you may be more apt to take smaller monthly payments
- Letter and Calls
 - Validation Letter (by law)
 - Call 1 time per week minimally
- Dig In
 - Are the address and telephone number correct?
 - Check for home ownership
 - How much is it worth?
 - Is there equity?
- What is the county of residence?



LAW FIRM PROCESSES

- **POST-JUDGMENT**

- Communicate the judgment to the consumer
 - Send Judgment Letter
 - Call
- If no response, then a garnishment is appropriate
 - Employment
 - Bank
- File and record a Transcript of Judgment for judgments in which the consumer owns real property
- Subpoena the consumer for an exam to get a full account of his/her financial situation



MEASURABLE RESULTS

OBSERVED LAW FIRM LIQUIDATION RATES	
Type of Debt	Rate
Family Support	67.32%
CDPHE (checks)	57.56%
Labor & Employment	34.72%
DOLE UI Tax	69.32%
Community College	48.24%
State College	46.02%

Source: Machol & Johannes, LLP



CONCLUSION

- **NARCA's PURPOSE**

- Elevate the standards and improve the practice and ethics of consumer collection law.
- Encourage, foster and advance professional practices and ethical conduct among its members.
- Educate the public and members of the credit and collection industry as to all aspects of the consumer collection industry.



QUESTIONS



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